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TESTIMONY OF ATTORNEY DEBORAH G. STEVENSON
IN OPPOSITION TO SB374

Chairmen Gerratana and Johnson, Committee Members, and guests, I am Attorney Deborah G. Stevenson, founder of National Home Education Legal Defense. I also have a private law firm in Southbury, CT, where I practice Constitutional Law, Education Law, Juvenile Law, Appellate Law, and Criminal Law. I am also a mother of two homeschooled daughters, one of whom graduated college at 16, got her Master's at 19, worked at the Center for Astrophysics at Harvard for three years before getting her PhD, and is currently employed as a Research Scientist at the International Pacific Research Center in Hawaii. The other daughter graduated college at 15, got a second undergrad degree at 19, recently got her Master's Degree, and is currently employed as a Recreational Therapist at the V.A. Hospital in Palo Alto, California. I am here today speaking in **opposition to SB374**.

I strongly oppose the mandatory mental health assessment of children for a variety of reasons. In a nutshell: the State has no authority to do it; the bill leaves many questions unanswered; enormous unintended consequences will result; and there are statutes on the books already that provide a means for all troubled children to be identified and assisted. Assessment is not the issue, providing better access to parents who seek it, is the issue.

1. First and foremost, I oppose the bill because **the legislature has absolutely no Constitutional authority to impose State mandated mental health assessments of any child**, regardless of where the child is educated. It is not the right of the State to make such decisions. **It is the Constitutionally protected right of the parents to do so under the Due Process Clause of the Fourteenth Amendment of the U.S. Constitution, and under Article First, §8 of the Connecticut Constitution.** The United States Supreme Court, and the Connecticut Supreme Court, has made that abundantly clear in a very long line of cases. See: Meyer v. Nebraska, 262 U.S. 390, 399, 401 (1923), **(the interest of parents in the care, custody, and control of their children is perhaps the oldest of the fundamental liberty interests recognized by the Supreme Court)**; Pierce v. Society of Sisters, 268 U.S. 510, 534-535 (1925), **(the liberty protected by the Due Process Clause of the Fourteenth Amendment includes the right of parents to direct the upbringing and education of children under their control)**; Prince v. Massachusetts, 321 U.S. 158 (1944), **(Our constitutional system long ago rejected any notion that "a child is the mere creature of the State ... there is a constitutional dimension to the right of parents to direct the upbringing of their children)**; Stanley v. Illinois, 405 U.S. 645, 651 (1972) **(the interest of a parent in the companionship, care, custody, and management of his or her children is plain)**;

Wisconsin v. Yoder, 406 U.S. 205, 232 (1972) (This **primary role of the parents in the upbringing of their children is now established beyond debate** as an enduring American tradition");

Quilloin v. Walcott, 434 U.S. 246, 255 (1978) ("We have recognized on numerous occasions that the relationship between parent and child is constitutionally protected");

Connecticut cases:

In re Juvenile Appeal (83-DE), 190 Conn. 310, 318-19, 460 A.2d 1277 (1983), (it is a fundamental precept that "[p]arents have a constitutionally protected right to raise and care for their own children");

Fish v. Fish, 285 Conn. 24, 44, 939 A.2d 1040 (2008) ("parents should not be faced with unjustified intrusions into their decision-making");

Roth v. Weston, 789 A.2d 431, 259 Conn. 202 (Conn. 2002), (the **essence of parenthood is the companionship of the child and the right to make decisions** regarding his or her care, control, education, health, religion and association).

A blanket State mandated assessment of all children, even those who don't need it, clearly is overbroad, and unconstitutional, in and of itself.

Furthermore, there is no valid reason articulated as to why the State seeks "to provide behavioral health assessments to children". The reason is not explained at all. Even if the only purpose is to "provide" the assessments, a decision to provide assessments to children is beyond the authority of the State. That is a decision Constitutionally left to parents. Thus, the bill represents a huge overreach into the authority of parents for no apparent reason. That is clearly wholly inappropriate. Quite simply, the government should not be in the business of requiring mental health assessments of anyone. It can't and it shouldn't.

2. The bill also leaves many questions unanswered, potentially resulting in many unintended consequences.

For example:

- Why are private school children are not included?
- What kind of a "mental health assessment" will be required? There are many assessments designed for many different purposes to detect many different problems.
- What if there is a dispute, how will it be resolved?
- Where are the procedural due process safeguards?
- Who really will wind up with access to the results of the assessment, either intentionally or unintentionally?
- Who will pay for the assessment?
- What happens if no one has funding to pay for it?
- Who is the "provider" of the assessment?
- Is the "provider" qualified to give the assessment, or will the provider be practicing medicine without a license?
- What if the "provider" gives the wrong assessment for that particular child?
- What if the assessment results in a false positive?
- What if the assessment does not detect a problem and the child goes untreated?
- Who will be liable to the child, the family, or the community?

Clearly these questions, and many others, demand answers – answers that, right now, are non-existent.

3. The bill is completely unnecessary. It is unnecessary when local boards of education **already are required to provide assessments** through the well-established **IDEA** (20 U.S.C. §§1401(3), 1414), and **special education laws** (Conn. Gen. Statutes §§10-76a, 10-76d, 10-76ff, 10-76t, 10-76U, 10-76v, 10-76w, and 10-76ii). Under those laws, the school boards are required to "find" children who have serious emotional problems, to identify them through a variety of assessments designed to meet the child's individual needs, and to provide appropriate services to them. Most importantly, **the parents must consent** to such identification and evaluation before it takes place. Any disputes are resolved through well-defined due process procedures resolved

administratively or through the courts. If this system is not working properly, then it needs to be reviewed and repaired. No new law is necessary.

4. **Assessment is not the issue – access to mental health services for those who need them is the real issue.** All parents, and teachers, instinctively know when a child needs help. The problem is in getting access to appropriate treatment and services for that child. The complexity of existing, duplicative, and unmanageable laws, coupled with services spread out over at least six different state agencies, is the true cause of the breakdown in the effective provision of mental health services for troubled children.

What the legislature could, and should, do to help is to **review** all of the many existing laws already on the books, **consolidate** the laws and the programs designed to provide mental health treatment, and **establish one centralized location for parents, teachers, and health care providers to go to obtain information and assistance in accessing the appropriate treatment for the children.** Amend the focus of those laws, also, to **encourage residential placement where necessary**, and to encourage other appropriate long-term treatment of those truly in need of it.

Think creatively to fund residential placement, treatment, research into the causes of mental illness, and cures. For example, re-direct existing funding to UConn, or other State colleges to conduct research, or, appoint a fundraiser at each college whose job would be to obtain grants from large private non-profit organizations to fund research into the causes and cures of mental illness. Provide incentives for scientists to congregate in this state for that purpose. Aim to establish a Connecticut Silicon Valley to develop innovative techniques and technology to cure mental illness.

Most importantly, while I applaud the effort to assist troubled children, I urge you not to act on emotions in adopting new laws that likely are overbroad and intrusive into the fundamental rights of parents. Instead, I urge you to take the time to act carefully, and rationally, to help all parents and children in the State by developing a truly effective, efficient, innovative, and Constitutional mental health system that will have practical and long lasting beneficial effect for everyone.

Please vote "No" on SB374, and on any other bill that is presented that impermissibly intrudes on the rights of parents.

Respectfully submitted,
Attorney Deborah G. Stevenson